REMARKS

This is in response to the Office Action mailed on December 27, 2004. Claims 1-29 were all rejected because of Marsh et al. (U.S. Patent Application 2002/0112395). The claims were either anticipated by Marsh under 35 U.S.C. § 102(e) or rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh alone or in view of one or more additional references. Claims 1-3 and 5 were also rejected under 35 U.S.C. § 102(b) as being anticipated by Mike et al. (U.S. Patent Number 5,634,293).

Independent claims 1, 12, 19, 23, 24, and 25 are amended and the application is now in condition for allowance, as explained below. Dependent claim 7 is amended to add an omitted word and dependent claim 10 is amended to be consistent with the terminology used in independent claim 1.

The fundamental feature of the pest removal device disclosed in this application is that the device completely covers and smothers the pest, which causes the pest to release from the surface, rather than the pest being pulled from the surface. (See Appl. at p. 9, ll. 1-15 (disclosing that if the pest becomes irritated or is suffocated, the imbedded pest releases from the surface and the pest is attached to the adhesive side of the pest removal device)). Because the pest releases *itself* from the surface, the device can remove the pest without any portion of the pest remaining in or on the surface. As discussed in the Background of the Invention, "[t]weezers and forceps have been used to remove burrowed insects from the skin of the host. A problem with using this type of removal device is that if the insect has attached itself to the host, then a portion of the insect may break off and remain at the burrow site when removing the insect. Materials remaining in the skin can lead to discomfort and infection." (Appl. at p. 2, ll. 9-13.) The disclosed pest removal device solves this problem by removing the entire pest.

The disclosed invention is distinguishable from Marsh based on the fact that it causes the pest to release from the surface, whereas Marsh discloses that the final step is "pulling the tick away from the point of attachment." (Marsh at p. 1, ¶ 14.) Marsh recognizes the problem articulated above that a portion of the pest may break off when pulling out the embedded tick (see id. at p. 1, ¶ 14 - p. 2, ¶ 15).

Marsh attempts to resolve this problem by teaching the user to apply the appropriate amount of force and to select an adhesive in which the "adhesion strength is such that the device will detach from the body of the tick before the head is broken away from the body." (Id.)

Claims 1, 12 and 19:

The amendments to claims 1, 12 and 19 further define that the main body or the substrate of the pest removal device is configured to be applied to the surface *to cover and smother the pest*. By covering and smothering the pest, the pest becomes irritated and releases from the surface, or the pest is suffocated and releases from the surface. (See Appl. at p. 9, ll. 1-6.) The pest removal device is not used to pull the embedded pest out of engagement with the surface. The device causes the pest to release from the surface because the device covers the pest for a sufficient period of time to smother it. (See Appl. at p. 9, ll. 9-12.)

Marsh does not teach that the pest removal device covers and smothers the pest in order to remove the pest from the surface. In Marsh, "the device is placed over the tick so that the tick is within the 'V' formed by the folded adhesive surface of the backing." (Marsh, p. 1, ¶ 14.) The final step is "grasping and pulling the tick away from the point of attachment". (Id.) Thus, Marsh does not teach to cover and smother the pest and thus claims 1, 12 and 19, as amended, are distinguishable from Marsh.

In addition, the amendments to claims 1, 12 and 19 further define the structure and function of the release tab of the pest removal device. Claims 1, 12 and 19 are amended such that the release tab extends from *an outer edge* of the main body (see amended claims 1 and 12) or from *an edge* of the engagement portion (see amended claim 19).

Amended claim 1 is not anticipated by Mike because Mike does not teach or suggest a tab extending from an outer edge of the device. Rather, Mike discloses a tab that extends from the middle of the device. In Mike, with the aid of the mounting assembly, the user pulls the tab which causes sections 11 and 12 "to fold in towards each other and thereby entrap and three-dimensionally seal the insect."

(Mike, col. 5, ll. 12-16.) Thus, in Mike, the device would not work successfully if the tab was not in the middle of the two sections of adhesive paper. Moreover, the device disclosed in Mike would likely not be able to remove an embedded pest, like a tick, without leaving parts of the pest embedded in the skin because the adhesive coated surfaces 11 and 12 are used to entrap the pest (see Mike, col. 5, ll. 16-18), without first causing the pest to release itself.

Amended claims 1, 12 and 19 are distinguishable over Marsh and Mike based on the structure and function of the release tab. In neither Marsh nor Mike could the tab extend from an edge of the pest removal device and still function as designed. As explained above under Mike, the tab must extend from the middle of the device. In Marsh, "the device is placed over the tick so that the tick is within the 'V' formed by the folded adhesive surface of the backing." (Marsh, p. 1, ¶ 14.) The "V" could not be formed if the tab was not positioned in the middle of the backing.

Here, the release tab is used to remove the pest removal device from a storing liner, prior to use, or from the surface after the pest releases and attaches to the adhesive layer of the pest removal device. (See Appl. at p. 6, ll. 22-23.) The user pulls on the release tab which causes the engagement side of the pest removal device to peel away from the surface or storing liner. In contrast, in both Marsh and Mike, the tab extends from the middle of the device and is used to bring the two halves of the device closer together in order to remove the pest. Thus, the release tab's function to pull the pest removal device from a surface or a storing liner makes the claims further distinguishable from Marsh and Mike.

Claims 23, 24 and 25:

The amendments to claims 23, 24 and 25 are directed towards an important feature of the invention which is to cause the pest to release from the surface. As disclosed in the specification, an embedded pest may release itself from the surface if it is suffocated or irritated. (See Appl. at p. 9, ll. 1-6.) After the pest releases itself from the surface, "the user 226 pulls on the release tab 216 and removes the

pest removal device 200 from the surrounding surface 230 with the pest attached to the device 200." (Id. at ll. 7-9.)

An important aspect of the pest removal device is that it covers the pest for a sufficient amount of time. As disclosed in the specification, "[t]o sufficiently irritate or suffocate the pest, the pest removal device 200 should be positioned over the pest 228 for a sufficient amount of time. Generally, three to ten minutes is sufficient and up to thirty minutes for deeply imbedded pests. The pest removal device 200 is then removed." (Appl. at p. 9, ll. 9-12.)

In contrast, in Marsh, the pest removal device is not designed to cover the pest for any period of time to allow the pest to release. Instead, Marsh discloses that the pest is pulled from the point of attachment. (See Marsh, p. 1, ¶ 14.) However, as disclosed in the specification, "[r]emoving the insect prior to it releasing properly may result in a portion of the insect breaking off and remaining at the burrow site." (Appl. at p. 2, ll. 22-23.) By covering the pest for a sufficient time to smother the pest and thus irritate or suffocate the pest, the pest removal device ensures that the pest can be completely removed. Thus, amended claims 23, 24 and 25 are distinguishable from Marsh.

Dependent claims:

All of the independent claims have been amended and, as explained in detail above, are in condition for allowance. Since all of the dependent claims contain all of the elements of the corresponding independent claim, the dependent claims are also valid.

CONCLUSION

With the above amendments and remarks, the application is now in condition for allowance. Notice to that effect is respectfully requested. The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

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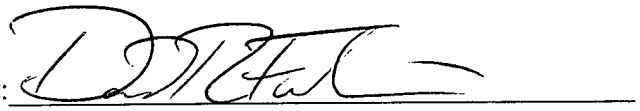
Date: 2/24/05

By: 

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